

# **Macomb Township**

**Dial-A-Ride Drivers**

**U.S. Department of Transportation  
Federal Transit Administration  
(FTA)**

**Drug-Free Workplace Policy**

**Effective  
September 1, 2004**



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## **INTRODUCTION AND OVERVIEW**

The U.S. Department of Transportation (DOT) and the Federal Transit Administration (FTA), an agency within the DOT, have issued regulations (49 CFR, Parts 40 and 655, hereinafter referred to as "DOT regulations") which govern the use of drugs and alcohol by mass transit employees. The FTA requires employers that receive financial assistance from the FTA for mass transit services, and contractors of such employers, conduct drug and alcohol testing at the times and under the conditions described in this Policy. The regulations apply to every covered employee, including an applicant or transferee, who performs a "safety-sensitive" function as defined herein and to all employers who are recipients or subrecipients of funding under 49 U.S.C. §§ 5307, 5309 or 5311, as amended, or 23 U.S.C. § 103(e)(4). Please direct all questions regarding this Policy to Macomb Township's Designated Employer Representative (DER).

## **PURPOSE**

It is Macomb Township's intention to comply fully with DOT regulations. In the event DOT regulations are amended, the Policy and the applicable terms, conditions, and/or requirements shall be deemed to have been amended automatically. Redrafting will not be necessary in order to reflect and be in compliance with DOT regulations. Macomb Township reserves the right to apply the amended requirements immediately, without giving prior notice to covered employees and/or applicants or other persons covered by Macomb Township Policy, unless the DOT or other applicable law requires such notice.

The goal of Macomb Township's Policy and the testing of covered employees is to ensure a drug and alcohol free transportation and work environment, to reduce and eliminate drug and alcohol related accidents, injuries, fatalities, and damage to Macomb Township property. For the purpose of this Policy, any employee performing under the definitions described below will be referred to as "covered employee."

## **CRITERIA FOR EMPLOYEES SUBJECT TO TESTING**

Under Macomb Township's Policy and DOT regulations, a covered employee is a person, including an applicant or transferee, or an employee of a contractor, who performs or will perform a "safety-sensitive" function for a recipient or subrecipient of FTA funding. All such covered employees are subject to the DOT drug and alcohol regulations. All applicants for positions as a covered employee will be notified of the Macomb Township's Drug-Free Workplace Program (DFWP) at the time they apply for the position.

## **DEFINITION OF "SAFETY-SENSITIVE"**

For the purpose of this Policy and Macomb Township's drug and alcohol testing program, employees of recipients, sub-recipients, operators or contractors who perform the following safety-sensitive duties are subject to drug and alcohol testing and the terms and conditions of this Policy:

- ⇒ operating a revenue service vehicle, including when not in revenue service;
- ⇒ operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL).
- ⇒ controlling dispatch or movement of a revenue service vehicle;
- ⇒ maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. (Exception: this provision does not apply to an employer who receives funding under 49 U.S.C. §§ 5307 or 5309 in areas less than 200,000 in population and who contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such service); or
- ⇒ carrying a firearm for security purposes.

A covered employee is considered to be performing a safety-sensitive function (and subject to drug and/or alcohol testing) during any period he or she is actually performing, ready to perform, or immediately available to perform such functions.

## **DEFINITIONS**

Definitions as used under this Policy are set forth below and in greater detail in 49 CFR §§ 40.3 and 655.4.

### **Drug:**

Drugs prohibited by this Policy means a controlled substance, as defined in schedules I through V of Section 202 of the Controlled Substances Act, 21 U.S.C. § 812. The term includes prescribed drugs not legally obtained, prescribed drugs not being used for prescribed purposes, and any prescribed drugs not taken in accordance with a prescription. In other words, medications prescribed for someone other than

the covered employee will be considered unlawfully used under any circumstances. Pursuant to DOT regulations, all DOT-required drug tests must test for the following substances identified in 49 CFR § 40.85: marijuana, cocaine, amphetamines, opiates (e.g., opium, heroin, morphine, codeine) and phencyclidine (i.e., PCP or "angel dust"). Macomb Township reserves its independent authority and discretion to prohibit and test for other drugs, as defined above, within the limits of applicable state law.

**Confirmation Test:**

- Alcohol:** A second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration.
- Drugs:** A second analytical procedure to identify and quantify the presence of a specific drug or metabolite that is independent of the screening test.

**Contractor:**

A person or organization that provides a safety-sensitive service for a recipient, sub-recipient, employer or operator consistent with a specific understanding or arrangement. The understanding can be a written contract or an informal arrangement that reflects an ongoing relationship between the parties. Providers of such services (e.g., maintenance service) on an ad hoc or one-time basis are specifically excluded by the FTA and are not required to comply with the testing regulations.

**Covered Employee:**

Any person, including an applicant or transferee, who performs or will perform a safety-sensitive function for an entity that receives federal financial assistance under 49 U.S.C. §§ 5307, 5309 or 5311, as amended, or 23 U.S.C. § 103(e)(4). A volunteer is a covered employee if (1) the volunteer is required to hold a Commercial Driver's License to operate the vehicle; or (2) the volunteer performs a safety-sensitive function for an entity subject to Part 655 and receives remuneration in excess of his or her actual expenses incurred while engaged in the volunteer activity.

**Disabling Damage:**

Damage that precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- Included:**
1. Damage to a motor vehicle, where the vehicle could have been driven, but would have been further damaged if so driven.
- Excluded:**
1. Damage that can be remedied temporarily at the scene of the accident without special tools or parts.
  2. Tire disablement without other damage even if no spare tire is available.
  3. Headlight or tail light damage.
  4. Damage to turn signals, horn, or windshield wipers which makes the vehicle inoperable.

**Refusal to Submit:**

A refusal to submit to a required drug and/or alcohol test (also "refusal to test") means any circumstance outlined in 49 CFR §§ 40.191 and 40.261, including circumstances in which a covered employee:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by Macomb Township, consistent with applicable DOT agency regulations, after being directed to do so by Macomb Township. This includes the failure of an employee

(including an owner-operator) to appear for a test when called by Macomb Township's Consortium/Third-Party Administrator (C/TPA);

2. Fails to remain at the testing site until the testing process is complete.
3. Fails to provide a urine specimen for any drug test, or fails to provide an adequate amount of saliva or breath for any alcohol test, required by Part 655 or other DOT agency regulations.
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the covered employee's provision of a specimen;
5. Fails to provide a sufficient amount of urine, saliva or breath when directed, and/or, with respect to urine or breath, it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test Macomb Township or collector has directed the covered employee to take (see, for instance, 49 CFR § 40.197(b));
7. Fails to undergo a medical examination or evaluation as directed by the MRO as part of the verification process, as directed by the DER pursuant to 49 CFR § 40.193, or as directed by Macomb Township as part of the insufficient breath procedures pursuant to 49 CFR § 40.265(c);
8. Fails to sign the certification at Step 2 of the ATF;
9. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when so directed by the collector, behave in a confrontational way that disrupts the collection process); or
10. Is reported by the MRO as having a verified adulterated or substituted test result.

Any covered employee who refuses to submit to a required drug and/or alcohol test or otherwise fails to cooperate with any part of the testing process is in violation of this Policy. Any covered employee who refuses such a test will be subject to the consequences described in the "Consequences for Policy Violations" section, including removal from safety-sensitive functions.

### **TESTS REQUIRED**

In general, DOT regulations require Macomb Township conduct, and a covered employee submit to, drug and/or alcohol tests at the following times and under the following conditions:

### **PRE-EMPLOYMENT/PRE-PLACEMENT**

A drug test is required before any covered employee or applicant will be allowed to perform a safety-sensitive function for the first time. Also, a drug test will be required before a current employee performing a non-safety-sensitive function is transferred into a safety-sensitive function for the first time.<sup>1</sup> Prior to taking a pre-employment/pre-placement drug test, the applicant/current employee will be given forms notifying the applicant/current employee to report for a drug test. All offers by Macomb Township to hire an applicant for, or to assign or transfer a current employee to, a covered employee position are conditioned upon the individual:

- ⇒ Signing Macomb Township's "Pre-Employment Acknowledgement Form" (MF109);
- ⇒ Taking and providing a negative drug test as directed by Macomb Township;

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<sup>1</sup> **Exception:** Generally, a pre-employment drug test is required anytime a covered employee or applicant has not performed a safety-sensitive function within a 90-day period. However, in the event a covered employee or applicant (i) has not performed a safety-sensitive function for 90 consecutive calendar days or more regardless of the reason (e.g., leave of absence, seasonal employment, training period), and (ii) Macomb Township has decided, within its discretion, to retain the individual within the random selection pool during that time, then a pre-employment drug test is not required by DOT regulations. Please note that nothing in DOT regulations prohibits the employer/operator from doing a DOT pre-employment drug test under the foregoing circumstances if they so choose.

- ⇒ Authorizing Macomb Township to obtain past drug and alcohol test results. The “Previous DOT-Testing History Form (MF107)” permits Macomb Township to obtain past drug and alcohol test results, including any refusals to test, from each DOT-regulated employer for whom the covered employee either worked, took, or refused to take, a drug and/or alcohol test during the past two (2) years;
- ⇒ Providing Macomb Township with information regarding whether he/she has tested positive or refused to test on any DOT required pre-employment drug or alcohol test in which the applicant/covered employee applied for, but did not obtain a safety-sensitive position in the preceding two (2) years (MF106); and
- ⇒ Complying with any other conditions or requirements of which Macomb Township advises the applicant at the time of the offer.

Macomb Township will not allow a covered employee, including an applicant, to perform a safety-sensitive function unless the employee takes a drug test administered under Part 655 with a verified negative test result.

A verified positive drug test will disqualify an applicant/covered employee from a safety-sensitive position and the conditional offer of employment for such position will be withdrawn. Before an applicant/covered employee with a verified positive pre-employment drug test may be reconsidered for a safety-sensitive position with Macomb Township or any other DOT-regulated employer, the applicant/covered employee must complete and provide proof of having successfully completed the DOT-required “Post-Violation/Return-to-Duty” process as described herein and as set forth in 49 CFR, §§ 40.281-40.313 and § 655.62.

Pursuant to DOT regulations, Macomb Township must make a “good faith effort” to obtain a covered employee’s previous testing information from the employee’s prior DOT-regulated employers, and such prior employers are required to provide the previous testing information to Macomb Township. This information should be obtained before the covered employee first performs safety-sensitive functions, unless this is not feasible, in which case the information should be obtained as soon as possible. In any event, a covered employee will not be allowed to perform a safety-sensitive function after 30 days from the date he or she first performed a safety-sensitive function, unless Macomb Township has obtained or made and documented a good faith effort to obtain the previous testing information. **A separate release for each prior employer must be signed by the applicant for the prospective employer to legally receive and utilize the information.** In addition, applicants must also complete a separate form indicating whether they have tested positive or refused to test on any pre-employment drug or alcohol test administered by an employer to which the applicant applied for, but did not obtain, safety-sensitive transportation work covered by DOT agency drug & alcohol rules during the past two (2) years. The standard ChoicePoint Master Forms MF106 and MF107 should be used for these purposes.

#### **POST-ACCIDENT**

A covered employee who is performing a safety-sensitive function must submit to a post-accident drug and alcohol test as soon as possible after any occurrence that meets the description of a “DOT Accident.” For purposes of this Policy and Macomb Township’s drug and alcohol testing program, a “DOT Accident” is defined as an occurrence associated with the operation of a vehicle, if as a result:

- ⇒ An individual dies;
- ⇒ An individual suffers bodily injury and immediately receives medical treatment away from the scene of the accident;
- ⇒ With respect to an occurrence in which the mass transit vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or vehicles are transported away from the scene by a tow truck or other vehicle; or
- ⇒ With respect to an occurrence in which the mass transit vehicle involved is a rail car, trolley car, trolley bus, or vessel, the mass transit vehicle is removed from operation.

### **Fatal DOT Accident**

As soon as practicable following a DOT Accident involving the loss of human life, each surviving covered employee operating the mass transit vehicle at the time of the accident must be tested for drugs and alcohol. Additionally, any other covered employees whose performance could have contributed to the accident, as determined by Macomb Township using the best information available at the time of the decision, must also be tested. Note: Covered employees who are also subject to Federal Motor Carrier Safety Administration (FMCSA) drug and alcohol testing regulations and who in fact submit to post-accident testing under the FMCSA fatal accident testing requirements will not be required to take another post-accident test under the FTA regulations and this Policy.

### **Non-Fatal DOT Accident**

As soon as practicable following a DOT Accident not involving the loss of human life, each covered employee operating the mass transit vehicle at the time of the accident will be tested for drugs and alcohol unless Macomb Township determines, using the best information available at the time of the decision, that the covered employee's performance can be completely discounted as a contributing factor to the accident. Additionally, any other covered employee whose performance could have contributed to the accident, as determined by Macomb Township using the best information available at the time of the decision, will also be tested.

### **Other Post-Accident Testing Requirements**

A covered employee may be directed to submit to a drug and/or alcohol test at the accident scene by a federal, state, or local law enforcement officer. Whenever a test is conducted by a law enforcement officer, the covered employee is required to immediately contact his/her supervisor or other Macomb Township official to report the drug and/or alcohol test result and to provide Macomb Township with the name, badge number, and telephone number of the law enforcement officer who conducted the test. A drug and/or alcohol test administered by a law enforcement officer does not relieve the covered employee of the requirement to submit to a Post-Accident test under this Policy. The results of a test administered by a law enforcement officer may be used by Macomb Township only when Macomb Township is unable to perform a Post-Accident test within the required time periods set forth below.

Whenever a covered employee is involved in a DOT accident and is not tested for drugs and/or alcohol by a law enforcement official, the covered employee is required to immediately contact his/her supervisor or other Macomb Township official and remain available to be tested. The covered employee must also notify his/her supervisor or the DER of his/her location if the covered employee leaves the scene of the accident prior to submission to a post-accident test. Failure to do so may be deemed, within Macomb Township's sole discretion, a refusal to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

The decision not to administer a drug and/or alcohol test under this section will be based on Macomb Township's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test.

As permitted by DOT guidance and based on Macomb Township's independent authority, drivers involved in a DOT Accident and required to take a Post-Accident drug and/or alcohol test will be removed from safety-sensitive duties until the Post-Accident test results are reported to Macomb Township. While awaiting the Post-Accident test results, the driver will be placed on non-disciplinary suspension. Hourly (non-exempt) employees will not be compensated for time missed from work if the test result is positive, adulterated or substituted, but will be compensated if the result is negative.

### **Alcohol:**

Tests should be administered within two (2) hours of an accident. If unable to test within the two (2) hour time period, the employer must document the reason(s) for the time delay. If the test was not performed within eight (8) hours, cease attempts to administer the test and document the reason(s) why the test was not conducted.

The covered employee must refrain from consuming alcohol for eight (8) hours after an accident and/or until the testing has been completed. A covered employee who is subject to post-accident testing must remain available or the employer may consider the covered employee to have refused to submit to testing.

**Drugs:**

Tests should be administered within thirty-two (32) hours after an accident. If the test was not performed within thirty-two (32) hours, the employer will cease attempts and prepare and maintain a record stating the reason(s) why the test was not conducted.

**RANDOM**

Every covered employee shall submit to random testing as directed by Macomb Township pursuant to DOT regulations. All such tests will be unannounced and performed at reasonable intervals throughout the year. Under the random selection process used, each covered employee will have an equal chance of being tested each time selections are made. Whenever a covered employee is randomly selected to be tested, he/she will be notified of their selection and instructed to immediately report to the collection site. If the covered employee is performing a safety-sensitive function at the time of the notification, however, the employee will cease to perform the safety-sensitive function and proceed to the testing site immediately. A covered employee who tests positive or refuses to submit to a test is medically unqualified to perform any safety-sensitive function.

**Alcohol:**

The annual rate for random alcohol testing is set by the Federal Transit Administration. Covered employees may be tested at any time just before, during, or just after performing safety-sensitive functions.

**Drugs:**

The annual rate for random drug testing is set by the Federal Transit Administration. Covered employees may be randomly tested for drugs at any time while the employee is at work for the employer.

**REASONABLE SUSPICION**

Each covered employee is required to submit to a drug and/or alcohol test whenever Macomb Township has reasonable suspicion (also referred to as "reasonable cause") to believe that a covered employee has used drugs and/or alcohol in violation of the DOT regulations. Reasonable suspicion will exist when a covered employee's appearance, behavior, speech, and/or body odors indicate drug and/or alcohol use, or the chronic and withdrawal effects of drugs and/or alcohol. Whenever a covered employee is notified that there is reasonable suspicion to be tested, the covered employee is expected to report to the test site immediately and will be escorted. Documentation of the covered employee's conduct and/or appearance leading to a reasonable suspicion drug/alcohol test should be prepared by the supervisor or Macomb Township official who made the observations as soon as possible following his/her reasonable suspicion determination. The ChoicePoint Master Form MF111 may be used for this purpose.

As permitted by DOT guidance and based on Macomb Township's independent authority, following a reasonable suspicion determination that leads to a Reasonable Suspicion drug and/or alcohol test, a driver will be removed from safety-sensitive duties until the Reasonable Suspicion test results are reported to Macomb Township. While awaiting the Reasonable Suspicion test results the driver will be placed on non-disciplinary suspension. Hourly (non-exempt) employees will not be compensated for time missed from work if the test is positive, adulterated or substituted, but will be compensated if the test result is negative.

**Alcohol:**

The observations forming the basis for reasonable suspicion, as well as the direction that a covered employee must submit to a reasonable suspicion test, must be made just before, during, or just after the covered employee performs a safety-sensitive function. The person who makes the reasonable suspicion determination cannot conduct the alcohol test.

Alcohol tests should be administered within two (2) hours of observation. If unable to test within the two (2) hour period, the employer must document the reasons for the time delay. If the test is not performed within eight (8) hours, cease attempts to administer the test and document the reason(s) why the test was not conducted.

If reasonable suspicion is observed and a test has not yet been performed, Macomb Township reserves the right, based on its independent authority, to not allow the covered employee to perform a safety-sensitive function until:



- ⇒ An alcohol test has been performed and the result is less than 0.02; or
- ⇒ The start of the covered employee's next regularly scheduled duty period, but not less than 8 hours following the reasonable suspicion determination.

**Drugs:**

Drug testing should be administered as soon as possible after making a reasonable suspicion determination.

**RETURN-TO-DUTY**

A covered employee who has been removed from his/her safety-sensitive function due to a positive drug and/or alcohol test result, a refusal to submit to testing, or other violation of DOT drug and alcohol regulations must provide a negative drug and/or alcohol test before being allowed to return to a safety-sensitive function. This test must be completed after an initial and follow-up evaluation by a Substance Abuse Professional (SAP), after the SAP's determination that the covered employee has successfully complied with prescribed education and/or treatment, and before resuming performance of a safety-sensitive function. The result of the alcohol test must be less than 0.02.

The return-to-duty test may not be limited to a specific substance (i.e., drugs or alcohol separately). If the SAP determines that a multiple-substance abuse problem exists, a drug test may be performed in conjunction with an alcohol test.

**POST-REHABILITATION/FOLLOW-UP**

A covered employee who has violated a DOT drug and/or alcohol regulation (e.g., a positive test, refusal to test, etc.) must be evaluated by a SAP and follow the prescribed rehabilitation/treatment program. Following the determination that a covered employee needs to resolve problems associated with drug abuse and/or alcohol misuse, each employer will ensure that the employee is subject to unannounced, follow-up drug and/or alcohol testing as determined by the SAP. At a minimum, such testing must consist of at least six unannounced follow-up tests in the first 12-months following the covered employee's return to safety-sensitive functions. The choice of the SAP and the assignment of costs shall be made in accordance with employer/covered employee agreements and employer policies. Follow-up alcohol testing must only be conducted just before, during, or just after a covered employee performs a safety-sensitive function.

**DRUG AND ALCOHOL PROHIBITIONS**

Employee involvement with drugs and/or alcohol can adversely affect the work environment, job performance, and safety of all employees. Violation of the prohibitions of this Policy will be considered to be serious misconduct and may result in termination.

**Drug Prohibitions:**

The DOT regulations prohibit the consumption or use of drugs by covered employees at all times. Listed below are Macomb Township's prohibitions, based on its independent authority, with respect to drug use.

- ⇒ No covered employee shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the covered employee uses any drugs, except when the use is pursuant to the instructions of a licensed medical practitioner who has advised the covered employee that the drug will not adversely affect the covered employee's ability to perform his/her safety-sensitive function.
- ⇒ If Macomb Township has actual knowledge that a covered employee has used a drug, the covered employee will not be permitted to perform or continue to perform a safety-sensitive function, except when such use is pursuant to the instructions of a licensed medical practitioner who has advised the covered employee that the drug will not adversely affect the covered employee's ability to perform his/her safety-sensitive function.
- ⇒ Macomb Township may require a covered employee to inform the employer of any therapeutic drug use.

- ⇒ No covered employee shall report for duty, remain on duty or perform a safety-sensitive function if the covered employee tests positive for drugs. If Macomb Township has actual knowledge that a covered employee has tested positive for drugs, the covered employee will not be permitted to perform or continue to perform safety-sensitive functions unless and until the required Post-Violation/Return-to-Duty procedures are followed.
- ⇒ No covered employee shall refuse to submit to a drug test required pursuant to DOT regulations.

#### **Alcohol Prohibitions:**

The DOT regulations prohibit any alcohol use that could affect performance of a safety-sensitive function. Listed below are the prohibitions for alcohol use.

- ⇒ No covered employee shall perform or continue to perform a safety-sensitive function while having an alcohol concentration of 0.04 or greater.
- ⇒ No covered employee shall use alcohol while performing safety-sensitive functions. If Macomb Township has actual knowledge that a covered employee has used alcohol while performing safety-sensitive functions, the covered employee will not be permitted to perform or continue to perform safety-sensitive functions.
- ⇒ No covered employee shall use alcohol within four (4) hours prior to performing safety-sensitive functions. If Macomb Township has actual knowledge that a covered employee has used alcohol within four (4) hours of performing a safety-sensitive function, the covered employee will not be permitted to perform or continue to perform safety-sensitive functions.
- ⇒ No covered employee who is on-call shall use alcohol during the specified on-call hours. A covered employee who is on-call must report any use of alcohol at the time he/she is called to report to duty and the inability to perform his/her safety-sensitive function. A covered employee on-call who acknowledges the use of alcohol but claims the ability to perform his/her safety-sensitive function, must take an alcohol test.
- ⇒ No covered employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- ⇒ No covered employee shall refuse to submit to an alcohol test required pursuant to DOT regulations.

**NOTE:** A covered employee found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, safety-sensitive functions until (1) the employee's alcohol concentration measures less than .02, or (2) the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

#### **CONSEQUENCES FOR POLICY VIOLATIONS**

##### **Removal from Safety-Sensitive Function:**

Covered employees and applicants shall not perform, nor be permitted to perform, a safety-sensitive function, if any of the above prohibitions are violated (e.g., verified positive drug test result, confirmed alcohol test result of .04 or greater, refusal to submit to a required test). A covered employee or applicant who violates a DOT drug and alcohol regulation will be advised by Macomb Township of the resources available for evaluating and resolving problems associated with prohibited drug use and alcohol misuse, including the names, addresses, and telephone numbers of Substance Abuse Professionals (SAPs) and counseling and treatment programs.

Additionally, employees subject to Post-Accident or Reasonable Suspicion testing will be removed from safety-sensitive functions and receive a non-disciplinary suspension until Macomb Township receives the test results. Hourly (non-exempt) employees will not be compensated for time missed from work if the test is positive, adulterated or substituted, but will be compensated if the test is negative.

##### **Post-Violation/Return-to-Duty Procedures:**

A covered employee who has violated a DOT drug and/or alcohol regulation cannot again perform any DOT safety-sensitive duties for Macomb Township or any DOT-regulated employer until and unless the employee has completed the SAP evaluation, referral and education/treatment process. For purposes of this Policy, a DOT drug and/or alcohol regulation violation includes a verified positive DOT drug test, a DOT alcohol test with a result indicating an alcohol concentration of .04 or greater, a refusal to test (including by adulterating or substituting a urine specimen), or any other violation of the prohibition on the use of alcohol or drugs under a DOT agency regulation.

Before a covered employee who has violated a DOT drug and/or alcohol regulation can return to a safety-sensitive position, he or she must:

- ⇒ Meet with a Substance Abuse Professional (SAP) for an initial evaluation;
- ⇒ Properly follow all SAP evaluation recommendations for assistance and referrals, to an education and/or treatment program;
- ⇒ Meet with the SAP for a follow-up evaluation to determine whether the individual has successfully complied with the SAP's education and/or treatment recommendations;
- ⇒ Take and provide a negative return-to-duty drug and/or alcohol test; and
- ⇒ Be subject to post-rehabilitation/follow-up testing as determined by the SAP for up to sixty (60) months, to include a minimum of six (6) follow-up tests in the first twelve (12) months after the return-to-duty test with an alcohol concentration of less than 0.02 and a negative drug test. The SAP may terminate the requirement for the follow-up testing at any time after the first six (6) tests have been administered, if the SAP determines that such testing is no longer necessary.

#### **Employee Discipline:**

Employees who engage in any of the prohibited conduct listed above are in violation of this Policy and are subject to discipline, up to and including termination, at Macomb Township's sole discretion pursuant to Macomb Township's authority independent of federal requirements.

Any employee who refuses to submit to testing or attempts to adulterate or substitute a specimen will be terminated.

A covered employee found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall not perform, nor be permitted to perform, safety-sensitive functions until (1) the employee's alcohol concentration measures less than .02, or (2) the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test.

#### **SUMMARY OF ALCOHOL TESTING PROCEDURES**

The DOT regulations discuss alcohol testing procedures in greater detail in 49 CFR, Part 40, which is incorporated herein by reference.

1. Alcohol testing is done at locations determined by Macomb Township in a private setting. The testing technician, who has been trained, will ask test subjects to verify their identity. Covered employees must cooperate with that request. Covered employees may ask the technician for identification also. The covered employee's identity will be recorded on a DOT alcohol testing form.
2. A breath or saliva testing device approved by the federal government will be used for all alcohol tests. A screening test will be done first. If a breath testing device is used, covered employees will be instructed to exhale forcefully into the mouthpiece of the screening device. If a saliva testing device is used, a swab will be placed in the covered employee's mouth and saturated with saliva. After the saliva is collected, the swab will be inserted into the saliva testing device.

3. The technician will show the result displayed on the screening device to the covered employee. If the reading is less than 0.02, the covered employee has passed the alcohol test and the DOT alcohol testing form will be completed.
4. If the screen test result is more than 0.02, a confirmation breath test, using a federally approved evidential breath testing device, will be performed after at least a 15 minute waiting period from the completion of the screening test. During that time, for their own protection, covered employees should not eat or drink anything.
5. For the confirmation test, the covered employee will have to exhale into the evidential breath testing device until the technician tells the covered employee to stop. The covered employee will be shown the printed and displayed results.
6. A confirmation test result under 0.02 means the covered employee has passed. A confirmation alcohol concentration level of 0.02 or higher will result in the covered employee's removal from safety-sensitive functions. The DOT prohibits any covered employee whose confirmation test registers 0.02 or greater but less than 0.04 from performing or from continuing to perform a safety-sensitive function until the covered employee's alcohol concentration measures less than .02 or the start of the employee's next regularly-scheduled duty period, but not less than eight (8) hours following administration of the test. If the confirmation level is 0.04 or more, or if the covered employee refuses to cooperate, the covered employee is in violation of DOT alcohol regulations and subject to the Consequences for Policy Violations and Post-Violation/Return-to-Duty Procedures described above.
7. If a covered employee tries, but fails to provide a breath specimen adequate for testing, the covered employee will be asked to try again. If the covered employee still does not provide an adequate specimen, the covered employee's failure will be noted on the DOT alcohol testing form, and Macomb Township's DER will be informed. The covered employee will be required to see a doctor, acceptable to Macomb Township, within five days for an evaluation. If the doctor provides a written statement to the employer concluding that it is highly probable a medical condition prevented the covered employee from providing an adequate breath specimen, the covered employee will not be disciplined for refusing to cooperate.

#### **SUMMARY OF DRUG TESTING PROCEDURES**

The DOT regulations discuss drug-testing procedures in greater detail in 49 CFR, Part 40, which is incorporated herein by reference.

1. Covered employees subject to drug testing will be directed to provide a urine specimen at a Macomb Township designated facility. The covered employee will be driven or sent to the facility and required to verify his or her identity. In return, a covered employee may ask collection site personnel to disclose their identity.
2. The covered employee's urine specimen will be collected by a trained collection site person (the Collector) in accordance with DOT rules, using a DOT Custody and Control Form (CCF), also known as a chain-of-custody form. To protect themselves, covered employees should ensure that the entries on the form are accurate, that their collected urine specimens have been sealed, and that their specimens are labeled with the same number as appears on the CCF and are placed in a container with copies of the correct CCF.
3. The Collector shall require covered employees to remove unnecessary outer garments that might conceal items used to tamper with the collection process. The Collector shall also retain personal belongings like briefcases and purses during the collection process. Covered employees may keep their wallets and ask for a receipt for any belongings they surrender. The collector will direct the covered employee to empty his or her pockets and display the items in them and the covered employee must allow the Collector to make this observation.
4. Covered employees will be given a collection container and allowed to provide a urine specimen in private unless: the laboratory reports a specimen was invalid and the MRO reports there was no adequate medical explanation for the result; the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed; the laboratory reports a specimen as having a low creatinine concentration (i.e., a creatinine concentration greater than or equal to 2 mg/dL and less than or equal to 5 mg/dL) and the MRO reports the specimen as negative and dilute; Macomb

Township directs a return-to-duty test or follow-up test be performed under direct observation; the Collector observes materials brought to the collection site or the covered employee's conduct clearly indicates an attempt to tamper with a specimen; the temperature on the original specimen was out-of-range; or the original specimen appeared to have been tampered with. In such circumstances, the DER will be notified and covered employees will be required to provide a specimen while being observed.

5. If the covered employee does not provide a sufficient amount of urine for testing (at least 45 ml), the Collector will discard the specimen, tell the covered employee to drink additional fluids, wait up to three (3) hours and try again to provide a specimen. If the covered employee refuses to drink those fluids or provide another specimen, the Collector shall notify Macomb Township DER of the covered employee's refusal to cooperate. If the covered employee cooperates, but still does not provide an adequate specimen, testing will stop and the covered employee will be sent to a doctor acceptable to Macomb Township's MRO within five working days for an evaluation. If that doctor states in writing to Macomb Township's MRO that it is highly probable that a medical condition prevented the covered employee from providing an adequate specimen, the covered employee will not be disciplined on grounds of refusing to provide a specimen.
6. If the covered employee provides a sufficient amount of urine for testing, it will be inspected by the Collector and its temperature will be measured. (If there is a reason to believe an altered or substituted specimen has been provided, the DER will be notified and a second, observed specimen will be collected.) Collected specimens will be poured into two containers (i.e., a split-specimen collection). The collector will seal the bottles by placing the tamper-evident bottle seals over the bottle caps/lids. The collector will date the seals and instruct the donor to initial the tamper-evident bottle seals for the purpose of certifying the bottles contain the specimens he or she provided.
7. Both specimen containers will be sent to a federally-certified laboratory designated by Macomb Township. The lab will review the CCF and check the specimens for apparent tampering. Any apparent tampering or CCF problems will be reported to the DER.
8. If the specimens appear to be in order, the lab will run an initial screening test on the primary specimen. If the screening test is negative, the lab will report the result as negative and the covered employee has passed the drug test. If the screening test is positive, the lab will conduct a confirmation test and analyze the specimen using Gas Chromatography/Mass Spectrometry (GC/MS). The laboratory will send the test results to Macomb Township's Medical Review Officer (MRO).
9. The MRO is a trained doctor Macomb Township has retained to review test results and to evaluate any explanation a covered employee may have for a positive, adulterated, substituted (because of a creatinine concentration of less than 2 mg/dL), or invalid drug test result. The MRO will telephone covered employees at the numbers given on the CCF. If a covered employee believes a mistake was made at the collection site or lab, or on a CCF, or that the drug test result was caused by lawful substance use, the covered employee should tell the MRO. Covered employees should cooperate with the MRO. If a covered employee does not cooperate, Macomb Township will be notified and the covered employee may be removed from duty and disciplined or discharged pursuant to Macomb Township's independent authority (or not hired, if the covered employee is an applicant).
10. If a covered employee wants his or her split specimen to be tested by another certified lab at the covered employee's expense, the covered employee should tell the MRO within 72 hours of notice of positive, adulterated or substituted drug test result. **The covered employee will not have the opportunity to provide another specimen.** The retest will be conducted on the secondary container of the original specimen. The covered employee's secondary specimen will then be sent to a different Macomb Township-approved, certified laboratory for re-analysis. If that second lab does not find any evidence of the drug(s) that the first lab found or the split specimen cannot be tested, the MRO will cancel the test results (and the covered employee will not be subject to discipline). If the second laboratory finds evidence of the drug(s) the first laboratory found, the MRO will tell the DER the split specimen was positive, adulterated or substituted. As provided in 49 CFR § 40.187(a)(3), in the case of a reconfirmed substituted result in which the creatinine concentration for the primary specimen was less than 2 mg/dL and the creatinine concentration of the split specimen is between 2 and 5 mg/dL (inclusive), the MRO will report the result as "dilute" and the covered employee will be required to undergo an immediate recollection under direct observation.

11. If the MRO informs Macomb Township that a negative drug test was dilute, the following will apply.

- **Dilute Negative with Low Creatinine:** If the MRO indicates that a recollection under direct observation is required because the creatinine concentration of the specimen was equal to or greater than 2 mg/dL but less than or equal to 5 mg/dL, Macomb Township must immediately instruct the covered employee to undergo a recollection under direct observation. The DOT's stated purpose for this requirement is so that people who may naturally produce low creatinine levels will not be reported to employers as having substituted their specimens.

The DOT prohibits any covered employee who has a verified positive, adulterated or substituted drug test result from performing or from continuing to perform a safety-sensitive function until he/she has met the proper DOT requirements as described in the "Post-Violation/Return-to-Duty Procedures" section above under Consequences for Policy Violations.

**Medications prescribed for someone other than the covered employee, however, will be considered unlawfully used under any circumstance. The DOT also indicates that a covered employee's purported use of marijuana for medical purposes (even if pursuant to a state "medical marijuana" law) or use of hemp or marijuana-related products does not constitute a legitimate medical explanation for a positive test result and these are insufficient grounds for the MRO to verify the test result as negative.**

#### **EDUCATION AND TRAINING**

Macomb Township has available information, education and training regarding problems associated with drug and alcohol abuse in the workplace and otherwise. One important source of information is the "Employee Handbook." Macomb Township also provides training for supervisors and managers through, among other things, the "Supervisor Training Manual." Macomb Township's educational information includes the display and distribution to covered employees of informational material and a community service hotline telephone number, if available, for employee assistance.

#### **ACKNOWLEDGEMENT**

Covered employees and applicants must sign an acknowledgement form (a copy of which is attached hereto and made a part hereof) after receiving a copy of this Policy and prior to testing.

#### **RESERVATION OF RIGHTS**

This Policy supersedes and revokes any other Macomb Township practice or policy relating to the use of drugs and alcohol in the workplace and drug and/or alcohol testing. Macomb Township reserves the right to interpret and administer this Policy, and at any time and at its sole discretion, amend, or change this Policy, in whole or in part, with or without notice. This Policy automatically incorporates any changes to the DOT or Federal Transit Administration Regulations (49 CFR, Parts 40 and 655) or related regulations or statutes that govern the use of drugs and alcohol by covered employees who perform a safety-sensitive function. This Policy is not an express or implied contract of employment nor is it to be interpreted as such. Additionally, this Policy does not in any way affect or change the status of any at-will employee. Nothing in this Policy is a promise or guarantee or should be construed as a promise or guarantee that Macomb Township will follow in any particular circumstances any particular course of action, disciplinary, rehabilitative or otherwise.

## **Attachment to FTA Drug-Free Workplace Policy**

### **SIGNS AND SYMPTOMS OF A DRUG-ALCOHOL PROBLEM**

Drugs and alcohol can result in such work-related problems as absenteeism and tardiness, lower productivity, missed deadlines, poor work quality, unsafe driving, and increased injuries and accidents. Problems relating to or communicating with supervisors, co-workers or customers, following directions, concentrating or remembering things may also indicate a drug or alcohol problem.

Drugs and alcohol slow reaction times, cause confusion, harm coordination and motor skills and can impair decision-making and memory. People misusing alcohol and using illegal drugs may be withdrawn, lethargic, depressed, erratic, "hyper" or unusually anxious, hostile or paranoid.

Drugs and alcohol misuse can also result in health problems like chronic gastritis, headaches, chronic respiratory infections and liver problems. They may also show up as poor hygiene, a sloppy appearance, financial problems, DUIs or family problems.

Evidence of use can include paraphernalia such as pipes, syringes, foil packets, pills, powders and empty alcohol containers. Physical symptoms of use can include:

- ⇒ Marijuana and alcohol odors
- ⇒ Puffy or droopy eyelids, bloodshot eyes, dilated or pinpoint pupils
- ⇒ Nosebleeds, excessive sniffing, chronic sinus problems, nasal sores
- ⇒ Needle tracks or blood spots on clothing
- ⇒ Tremors, racing or irregular heartbeats
- ⇒ Slurred or incoherent speech
- ⇒ Confusion, anxiety, paranoia
- ⇒ Coordination problems
- ⇒ Lethargy and sleepiness

### **EFFECTS OF ALCOHOL AND DRUGS**

Drugs and alcohol can harm health and the workplace in a variety of ways.

#### **Alcohol**

Alcohol is a central nervous system depressant that acts like a poison if used in large quantities. Each year the lives of tens of thousands of Americans are shortened or ended by alcohol misuse.

Alcohol quickly reaches the brain after drinking. It impairs self-control and other learned behaviors. This loss of self-control can lead to aggressive driving (or overly cautious driving), as well as the other kinds of aggressive behaviors associated with drinking. Even small doses of alcohol – i.e., a single drink – can harm driving performance. In large doses, alcohol significantly impairs coordination, memory and judgment.

Over time, alcohol misuse damages the liver, the heart, the digestive system and can cause permanent brain damage. On average, alcoholics shorten their life span by about 10 years.

Alcohol misuse harms the ability to think clearly, harms judgment and can affect the ability to get along with and work constructively with co-workers and customers. Alcoholics often have attendance and work performance problems and get fired because of the consequences of alcohol misuse. Because of its adverse effects on coordination, reflex time, vision, driving ability, judgment and the ability to evaluate and quickly process information, alcohol is especially dangerous for covered employees who perform safety-sensitive functions for mass transit systems.

A small glass of wine, a can of beer and a one and one-half ounce shot of liquor all contain about the same amount of alcohol. It takes the body about one hour to metabolize and eliminate each "drink" of alcohol. Coffee, exercise and cold showers do not speed up this process or magically produce sobriety. While individuals differ greatly, each drink on an empty stomach by an average-sized adult male may lead to an alcohol concentration of about .02.

Thus, drinking more than two drinks raises a serious risk of having an alcohol concentration in excess of DOT rules, especially for people with low body weights. Any drinking while on duty or during the 4 hours before working violates DOT rules.

### **Cocaine**

Cocaine is a powerful stimulant that can be inhaled up the nose, injected or smoked. It greatly increases heart rate and blood pressure. Partly because of its effects on the circulatory system, cocaine use can lead to seizures. Every time cocaine is used, there is some unquantifiable risk of a fatal stroke or heart attack. Cocaine can also cause tremors, convulsions, vomiting and raises body temperature to dangerous levels. Repeated snorting damages nasal tissues, sometimes permanently. Needle use carries risks of infection and overdose.

Initially, cocaine use brings a rush of euphoria and exaggerated over confidence. Sometimes these effects are so strong that safe driving is impossible. Cocaine wears off in about an hour after it is snorted and in just a few minutes after it is smoked. When it wears off, the user may become depressed, anxious, paranoid and exhausted.

Cocaine users may exhibit rapid mood swings and changes in activity level. They may grind their teeth, repeatedly wash their hands or engage in other compulsive behaviors.

### **Amphetamines**

Amphetamines, also known as "speed," are powerful stimulants that are often abused by covered employees because they make it easy to stay awake. Amphetamines, however, are dangerous drugs with a high potential for abuse. Amphetamines may also be known as uppers, black beauties, white crosses or dexies.

Use brings feelings of alertness and a loss in appetite. The user may also become very talkative or physically active or feel very strong after ingesting amphetamines. In a few hours however, the amphetamines wear off and restlessness, anxiety, paranoia and headaches set in.

In large doses, amphetamines can produce serious toxic effects. The user's blood pressure can rise to the point where strokes or heart attacks occur. Long-term users often have acne, tooth problems and may exhibit symptoms of permanent brain damage.

### **Marijuana**

Marijuana is a hallucinogen that alters the user's sense of time and reduces the user's ability to perform tasks requiring coordination, swift reactions and concentration. Taken in large quantities, marijuana can act like a depressant.

While some people may regard marijuana as harmless, there is evidence its use is unhealthy and dangerous for the covered employee. Marijuana causes significant increases in blood pressure and pulse rate and, thus, can aggravate or cause heart disease. Marijuana smoke also contains a number of known carcinogens. Many experts believe that marijuana is actually more unhealthy to smoke than tobacco.

Studies have shown that smoking marijuana affects the ability to perform tasks like driving, which require both thinking and motor skills, for at least 24 hours. Users, however, often believe that all the impairing effects of smoking have worn off after 4 to 6 hours. Marijuana significantly impairs short-term memory and can harm the user's ability to concentrate or plan for and achieve long-term goals. There is also significant evidence that marijuana harms the reproductive systems of men and women and is dangerous for children and non-smokers who live with the user.

### **Opiates**

Opiates are a class of narcotics and sedatives derived from the opium poppy plant. Heroin is the strongest opiate. Heroin use has been increasing in recent years because of the availability of cheap, strong heroin from Asia. This new stronger heroin can be smoked or snorted. Heroin can also be injected using needles.

Morphine and codeine are opiates that are often used to relieve pain or induce sleep. However, they can be stolen from hospitals or pharmacies and abused.



Opiate misuse causes a number of health problems. Because of variations in dosages and strength, heroin use carries a risk of overdose and death. Addicts who use needles also risk contracting AIDS or hepatitis. Heroin is often contaminated with other drugs or toxins or combined with other narcotics.

Opiate use slows down and depresses a number of body functions, including brain functioning. Heroin users may act sleepy or euphoric for a while and then become anxious or irritated after the heroin wears off. Heroin users tend to have a number of related health problems and tend to also abuse alcohol and tobacco. Together, these drugs and the unhealthy lifestyles of heroin users result in decreased life expectancy.

### **PCP**

Phencyclidine, or PCP, is also called angel dust or dust. PCP is an extremely dangerous hallucinogen that has unusual and unpredictable side effects. It was developed as an anesthetic in the late 1950's and used for a while as a tranquilizer both for humans and animals. Because of its dangers, it now has no legal uses and is no longer legally manufactured. Rather, PCP is manufactured in underground laboratories. It often contains dangerous adulterants but is very dangerous all by itself.

PCP can produce violence and bizarre behavior in anyone who uses it. Occasionally, PCP users attack nurses and policemen or jump out of windows because they believe they can fly. PCP somehow scrambles the brain's internal stimuli and seriously changes how users feel, see and deal with their environment.

In low doses, PCP produces a feeling of numbness. Increased doses produce excitement, confusion and delirium. The user's body may become rigid or go into convulsions. Routine activities like driving become dangerous and unpredictable.

Users may walk with strange uncoordinated steps. PCP users may have a blank stare, sweat heavily, have thick slurred speech or engage in some of the violent and bizarre behaviors mentioned above.

## **Acknowledgement of Receipt of Policy**

I hereby acknowledge that I have received, read, and understand my Company's Drug-Free Workplace Program Policy required by Department of Transportation (DOT) regulations. I understand that I am subject to and must adhere to the DOT regulations, and must abide by the terms of the Company's Policy as a condition of employment.

I understand that during my employment I may be required to submit to drug and/or alcohol tests based on Department of Transportation regulations as directed by the Company. I agree to comply with the Company's Policy on drugs and/or alcohol and understand failure to comply is grounds for disciplinary action, up to and including termination, in addition to any action required by DOT regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations, as well as the Company's Policy, and may result in disciplinary action, including but not limited to suspension (with or without pay) or termination of employment, in addition to action required by DOT regulations. I further understand the consequences related to controlled substances use or alcohol misuse as prohibited by Company's Policy.

I acknowledge that the provisions of Company's Drug-Free Workplace Program Policy are part of the terms and conditions of my employment, and that I agree to abide by them.

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**THE UNDERSIGNED STATES THAT HE OR SHE HAS READ THE FOREGOING ACKNOWLEDGEMENT AND UNDERSTANDS THE CONTENTS THEREOF.**

Employee Name: \_\_\_\_\_ Date: \_\_\_\_\_

Employee Social Security Number: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

I am the parent/guardian of \_\_\_\_\_, and I acknowledge that I understand the company's Drug-Free Workplace policy. I hereby agree to his/her participation in the Company's Drug-Free Workplace Program.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Parent/Guardian Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**NOTE:** *This certificate should be retained in a secured file.*